

Senate File 554 - Introduced

SENATE FILE 554

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 284)

A BILL FOR

1 An Act relating to pharmacy benefits manager reverse auctions
2 and group insurance for public employees.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 8A.319 Pharmacy benefits manager
2 reverse auctions.

3 1. This section may be cited as *"The Iowa Competitive*
4 *Pharmacy Benefits Managers Marketplace Act"*.

5 2. As used in this section, unless the context otherwise
6 requires:

7 a. *"Market check"* means a technology-driven evaluation of an
8 incumbent pharmacy benefits manager's prescription drug pricing
9 based on benchmark comparators derived from pharmacy benefits
10 manager reverse auction processes conducted in the United
11 States over the immediately preceding twelve months.

12 b. *"Participant bidding agreement"* means an online
13 agreement that details common definitions, prescription drug
14 classifications, rules, data access and use rights, and other
15 optimal contract terms that benefit the state and that all
16 bidders must accept as a prerequisite for participation in a
17 pharmacy benefits manager reverse auction.

18 c. *"Pharmacy benefits manager"* means the same as defined in
19 section 510B.1.

20 d. *"Pharmacy benefits manager reverse auction"* means an
21 automated, transparent, and competitive bidding process
22 conducted online that starts with an opening round of bids
23 and allows qualified pharmacy benefits manager bidders to
24 counteroffer a lower price for as many rounds of bidding
25 as determined by the department for a multiple health plan
26 prescription drug purchasing group.

27 e. *"Price"* means the projected cost of a pharmacy benefits
28 manager's bid to provide prescription drug benefits to allow
29 direct comparison of the comparably calculated costs of
30 competing pharmacy benefits managers' proposals over the
31 duration of the pharmacy benefits manager's services contract.

32 f. *"Real-time"* means within no more than one hour.

33 g. *"Self-funded private sector health plan"* means any
34 self-funded private sector employer or multi-employer health
35 plan.

1 *h. "Self-funded public sector health plan"* means any group
2 benefit plan under chapter 509A.

3 3. Consistent with section 8A.311, and notwithstanding any
4 other law to the contrary, the department shall enter into a
5 contract for the services of a pharmacy benefits manager for
6 the administration of benefits of self-funded public sector
7 health plans in compliance with this section.

8 4. Prior to November 1, 2024, the department shall
9 procure, through solicitation of proposals from qualified
10 professional services vendors, all of the following based on
11 price, capabilities, and other factors deemed relevant by the
12 department:

13 *a.* A technology platform with the capabilities to conduct
14 a pharmacy benefits manager reverse auction. The department
15 shall ensure that the technology platform possesses, at a
16 minimum, the capacity to do all of the following:

17 (1) Conduct an automated, online, reverse auction of
18 pharmacy benefits manager services using a software application
19 and high-performance data infrastructure to intake, cleanse,
20 and normalize pharmacy benefits manager data with development
21 methods and information security standards that have been
22 validated by receiving service organization control 2 and
23 national institute of standards and technology certification,
24 or successor information technology security certifications, as
25 identified by the office of the chief information officer.

26 (2) Automate repricing of diverse and complex pharmacy
27 benefits managers' prescription drug pricing proposals to allow
28 direct comparison by the state of the comparably calculated
29 costs of pharmacy benefits managers' bids using one hundred
30 percent of annual prescription drug claims data available
31 for state-funded health plans, or a multiple health plan
32 prescription drug purchasing group, and using code-based
33 classification of drugs from nationally accepted drug sources.

34 (3) Simultaneously evaluate in real-time diverse and
35 complex multiple proposals from full-service pharmacy benefits

1 managers, including average wholesale price, guaranteed
2 net cost, and national average drug acquisition cost
3 pricing models, as well as proposals from pharmacy benefits
4 administrators and specialty drug and rebate carve-out service
5 providers.

6 (4) Produce an automated report and analysis of pharmacy
7 benefits managers' bids, including ranking of pharmacy benefits
8 managers' bids based on comparative costs and qualitative
9 aspects of the bids in real-time following the close of each
10 round of reverse auction bidding.

11 (5) Perform real-time, electronic, line-by-line,
12 claim-by-claim review of one hundred percent of invoiced
13 pharmacy benefits managers' prescription drug claims, and
14 identify all deviations from the specific terms of the pharmacy
15 benefits manager's services contract that resulted from the
16 reserve auction process.

17 b. Related services from the operator of the technology
18 platform identified in paragraph "a", which at a minimum shall
19 include all of the following:

20 (1) Evaluation of the qualifications of pharmacy benefits
21 manager bidders.

22 (2) Pharmacy benefits manager reverse auction services to
23 support the department in comparing pricing for the pharmacy
24 benefits manager procurement.

25 (3) Related professional services.

26 5. The department shall not award a contract for the
27 technology platform and technology operator services to a
28 vendor that is a pharmacy benefits manager or to a vendor that
29 is managed by, or a subsidiary or affiliate of, a pharmacy
30 benefits manager.

31 6. The vendor awarded the contract by the department shall
32 not outsource any part of the pharmacy benefits manager reverse
33 auction or any part of the automated, real-time, electronic,
34 line-by-line, claim-by-claim review of invoiced pharmacy
35 benefits manager prescription drug claims.

1 7. With technical assistance and support provided by the
2 technology platform operator, the department shall specify the
3 terms of the participant bidding agreement. The terms of the
4 participant bidding agreement shall not be modified except by
5 specific consent of the department.

6 8. *a.* The technology platform used to conduct the reverse
7 auction shall be repurposed over the duration of the pharmacy
8 benefits manager's services contract as an automated pharmacy
9 claims adjudication engine to perform real-time, electronic,
10 line-by-line, claim-by-claim review of one hundred percent of
11 invoiced pharmacy benefits manager's prescription drug claims,
12 and to identify all deviations from the specific terms of the
13 pharmacy benefits manager's services contract.

14 *b.* The department shall reconcile the electronically
15 adjudicated pharmacy claims, as described in paragraph "a",
16 with pharmacy benefits manager's invoices on a monthly or
17 quarterly basis to ensure that state payments shall not exceed
18 the terms specified in any pharmacy benefits manager's services
19 contract.

20 *c.* If following state payment to the pharmacy benefits
21 manager on the basis of the reconciliation under paragraph
22 "b" the pharmacy benefits manager asserts that the department
23 paid less than the amount owed, the pharmacy benefits manager
24 may seek resolution through a mutually acceptable dispute
25 resolution process that the parties agreed to in the terms of
26 the services contract under subsection 9, paragraph "a".

27 9. *a.* The first pharmacy benefits manager reverse auction
28 shall be completed and the services contract shall be awarded
29 to the winning pharmacy benefits manager with an effective date
30 beginning July 1, 2024. Subsequent contracts must be awarded
31 no later than three months prior to termination or expiration
32 of the current pharmacy benefits manager's services contract
33 for a covered group, such as the state employees benefits
34 group, that includes only active employees and dependents, but
35 does not include retiree participants in a Medicare part D

1 employer group waiver program pursuant to the federal Medicare
2 Prescription Drug, Improvement, and Modernization Act of 2003,
3 Pub. L. No. 108-173.

4 *b.* In the event an eligible covered group that includes
5 retiree participants in a Medicare part D employer group
6 waiver program pursuant to the federal Medicare Prescription
7 Drug, Improvement, and Modernization Act of 2003, Pub. L. No.
8 108-173, opts to use the processes and procedures under this
9 section, the relevant pharmacy benefits manager reverse auction
10 shall be completed and the pharmacy benefits manager services
11 contract shall be awarded to the winning pharmacy benefits
12 manager no later than six months prior to termination or
13 expiration of the pharmacy benefits manager's services contract
14 currently covering the retiree employer group waiver program
15 participants.

16 10. The department may perform a market check for providing
17 pharmacy benefits manager services during the term of the
18 current pharmacy benefits manager's services contract in order
19 to ensure continuing competitiveness of incumbent prescription
20 drug pricing during the term of a pharmacy benefits manager's
21 services contract.

22 11. To ensure that the department does not incur additional
23 expenditures associated with the pharmacy benefits manager
24 reverse auction, ongoing electronic review and validation
25 of pharmacy benefits managers' claims, and periodic market
26 checks, the department shall implement a no-pay option that
27 obligates the winning pharmacy benefits manager, rather than
28 the state, to pay the cost of the technology platform and
29 related technology platform operator services by assessing the
30 pharmacy benefits manager a per-prescription fee in an amount
31 agreed to by the department and the technology operator, and
32 requiring the pharmacy benefits manager to pay the fees to the
33 technology operator over the duration of the pharmacy benefits
34 manager's services contract. The obligation of the winning
35 pharmacy benefits manager to pay the per-prescription fee shall

1 be incorporated as a term of the participant bidding agreement
2 and the pharmacy benefits manager's services contract awarded
3 to the pharmacy benefits manager reverse auction winner.

4 12. *a.* This section shall apply to group benefit plans
5 under chapter 509A. This section shall not apply to nonprofit,
6 nongovernmental health maintenance organizations with respect
7 to managed care plans that provide a majority of covered health
8 care services through a single contracted medical group.

9 *b.* After completion of the first pharmacy benefits manager
10 reverse auction, self-funded private sector health plans with
11 substantial participation by Iowa employees and the employees'
12 dependents shall have the option to participate in a joint
13 purchasing pool with state employees for subsequent pharmacy
14 benefits manager reverse auctions.

15 *c.* Any self-funded public sector health plans or self-funded
16 private sector health plans that opt to participate with
17 the state employees group benefits plan in a joint pharmacy
18 benefits manager reverse auction purchasing pool shall retain
19 full autonomy over determination of the individual health
20 plan's respective prescription drug formularies and pharmacy
21 benefit designs, and shall not be required to adopt a common
22 prescription drug formulary or common prescription pharmacy
23 benefit design. Any such entity or purchasing group shall
24 agree, before participating in the pharmacy benefits manager
25 reverse auction, to accept the prescription drug pricing plan
26 that is selected through a pharmacy benefits manager reverse
27 auction process.

28 *d.* Any pharmacy benefits manager providing services to the
29 department, to a self-funded public sector health plan, or
30 to a self-funded private sector health plan as described in
31 this section shall provide the department, each participating
32 self-funded public sector health plan, and each participating
33 self-funded private sector health plan access to complete
34 pharmacy claims data necessary to conduct the pharmacy
35 benefits manager reverse auction and to carry out applicable

1 administrative and management duties.

2 13. Notwithstanding subsection 3, the department may elect
3 to vacate the outcome of a pharmacy benefits manager reverse
4 auction if the lowest-cost pharmacy benefits manager's bid
5 is not less than the projected cost trend for the incumbent
6 pharmacy benefits manager's services contract as verified by
7 the department. The department may utilize a consultant to
8 conduct the verification. The cost trend shall be projected
9 by the technology platform operator using industry-recognized
10 data sources and shall be subject to review and approval by
11 the department in advance of the pharmacy benefits manager
12 reverse auction. Methodology shall be applied consistently in
13 projection of cost and savings to the state with regard to the
14 incumbent pharmacy benefits manager's services contract and
15 competing pharmacy benefits manager reverse auction bids.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to pharmacy benefits manager reverse
20 auctions and group insurance for public employees.

21 "Pharmacy benefits manager reverse auction" (reverse
22 auction) is defined in the bill as an automated, transparent,
23 and competitive bidding process conducted online that starts
24 with an opening round of bids and allows qualified pharmacy
25 benefits manager (PBM) bidders to counter-offer a lower price
26 for as many rounds of bidding as determined by the department
27 of administrative services (DAS) for a multiple health plan
28 prescription drug purchasing group. "Price" is defined as
29 the projected cost of a PBM's bid to provide prescription
30 drug benefits to allow direct comparison of the comparably
31 calculated costs of competing PBMs' proposals over the duration
32 of the PBM's services contract.

33 Consistent with Code section 8A.311, and notwithstanding
34 any other law to the contrary, the department shall enter into
35 a contract for the services of a PBM for the administration

1 of benefits of self-funded public sector health plans.
2 "Self-funded public sector health plans" is defined as any
3 group benefit plan under Code chapter 509A. Prior to November
4 1, 2024, DAS shall procure, through solicitation of proposals
5 from qualified professional services vendors, a technology
6 platform with capabilities to conducting a PBM reverse auction,
7 and related services from the operator of the technology
8 platform. The requirements for the technology platform and for
9 the related services are detailed in the bill.

10 DAS is prohibited from awarding a contract for either
11 the technology platform or the technology operator services
12 to a vendor that is a PBM or a vendor that is managed
13 by, or a subsidiary or affiliate of, a PBM. The vendor
14 awarded the contract by DAS shall not outsource any part
15 of the PBM reverse auction or of the automated, real-time,
16 electronic, line-by-line, claim-by-claim review of invoiced
17 PBM prescription drug claims. With technical assistance and
18 support provided by the technology platform operator, DAS shall
19 specify the terms of the participant bidding agreement.

20 The technology platform used to conduct the reverse auction
21 shall be repurposed over the duration of the PBM's services
22 contract as an automated pharmacy claims adjudication engine
23 to perform real-time, electronic, line-by-line, claim-by-claim
24 review of 100 percent of invoiced PBM drug claims, and to
25 identify all deviations from the specific terms of the PBM's
26 services contract.

27 DAS is required to reconcile the electronically adjudicated
28 pharmacy claims with PBM invoices on a monthly or quarterly
29 basis to ensure that state payments shall not exceed the terms
30 specified in any PBM's services contract. If, following state
31 payment to the PBM on the basis of the reconciliation, the
32 PBM asserts that DAS has paid less than the amount owed, the
33 PBM may seek resolution through a mutually acceptable dispute
34 resolution process as agreed to in the terms of the services
35 contract between the parties.

1 The first PBM reverse auction shall be completed and the
2 PBM services contract shall be awarded to the winning PBM
3 with an effective date beginning July 1, 2024. Subsequent
4 services contracts must be awarded no later than three months
5 prior to termination or expiration of the current PBM's
6 services contract for a covered group, such as the state
7 employees benefits group, that includes only active employees
8 and dependents, but does not include retiree participants in
9 a Medicare part D employer group waiver program (Medicare
10 employer group) pursuant to the federal Medicare Prescription
11 Drug, Improvement, and Modernization Act of 2003 (Medicare
12 Act). If an eligible covered group that includes retiree
13 participants in a Medicare employer group pursuant to the
14 Medicare Act opts to use the processes and procedures under the
15 bill, the relevant PBM reverse auction shall be completed and
16 the PBM services contract shall be awarded to the winning PBM
17 no later than six months prior to termination or expiration
18 of the current PBM's services contract covering the Medicare
19 employer group.

20 DAS may perform a market check for providing PBM services
21 during the term of the current PBM's services contract.
22 "Market check" is defined in the bill. DAS shall implement a
23 no-pay option that obligates the winning PBM, rather than the
24 state, to pay the cost of the technology platform and related
25 technology platform operator services by assessing the PBM a
26 per-prescription fee as detailed in the bill.

27 The bill shall apply to group benefit plans under Code
28 chapter 509A. The bill shall not apply to nonprofit,
29 nongovernmental health maintenance organizations with respect
30 to managed care plans that provide a majority of covered health
31 care services through a single contracted medical group.

32 After the first PBM reverse auction, self-funded private
33 sector health plans with substantial participation by Iowa
34 employees and their dependents shall have the option to
35 participate in a joint purchasing pool with state employees for

1 subsequent PBM reverse auctions. Any self-funded public sector
2 health plans or self-funded private sector health plans that
3 opt to participate with the state employees group benefits plan
4 in a joint PBM reverse auction purchasing pool shall retain
5 full autonomy as detailed in the bill.

6 DAS may elect to vacate the outcome of a PBM reverse auction
7 if the lowest-cost PBM bid is not less than the projected cost
8 trend for the incumbent PBM contract as verified by DAS or by
9 a consultant retained by DAS.